

2005 DOPL LEGISLATIVE HIGHLIGHTS

IMPORTANT NOTE: The following descriptive summaries have been compiled from the general descriptions and highlighted provisions for each respective enrolled bill. For complete information, you are encouraged to review the full text of each bill, available on the Utah Legislature's website: www.le.utah.gov

H.B. 1 Appropriations Act

Appropriates funds for the support and operation of state government for the fiscal year beginning July 1, 2005 and ending June 30, 2006. Provides base budgets for the use and support of certain state agencies. Provides base budgets for other purposes as described. Provides compensation increases for state employees. Provides intent language. Approves internal service fund employment levels and capital acquisition amounts. Authorizes rates and fees.

H.B. 12 Health Care Assistants

Repeals provisions in the Nurse Practice Act that requires the registration of health care assistants by the Division of Occupational and Professional Licensing. Makes technical amendments. Makes conforming amendments to the Human Services Code.

H.B. 13 Occupational and Professional Licensing Sunset Amendment

Eliminates repeal dates for the licensure of certain occupations and professions by the Division of Occupational and Professional Licensing. These include the following:

- Title 58, Chapter 3a, Architects Licensing Act
- Title 58, Chapter 5a, Podiatric Physician Licensing Act
- Title 58, Chapter 16a, Utah Optometry Practice Act
- Title 58, Chapter 17b, Pharmacy Practice Act
- Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act
- Title 58, Chapter 26a, Certified Public Accountant Licensing Act
- Title 58, Chapter 28, Veterinary Practice Act
- Title 58, Chapter 31b, Nurse Practice Act
- Title 58, Chapter 37, Utah Controlled Substances Act
- Title 58, Chapter 37a, Utah Drug Paraphernalia Act
- Title 58, Chapter 37b, Imitation Controlled Substance Act
- Title 58, Chapter 44a, Nurse Midwife Practice Act
- Title 58, Chapter 53, Landscape Architects Licensing Act
- Title 58, Chapter 67, Utah Medical Practice Act
- Title 58, Chapter 68, Utah Osteopathic Medical Practice Act
- Title 58, Chapter 69, Dentist and Dental Hygienist Practice Act
- Title 58, Chapter 73, Chiropractic Physician Practice Act

H.B. 25 Direct-Entry Midwife Act

Provides for licensing of direct-entry midwives by the Division of Occupational and Professional Licensing. Provides for definitions relating to the practice of direct-entry midwifery. Creates the Licensed Direct-Entry Midwife Board and sets forth its membership and

duties. Requires the division to establish a Licensed Direct-Entry Midwife Formulary Committee and a licensed direct-entry midwife formulary to define which prescription drugs can be obtained and administered by licensed direct-entry midwives and to provide guidelines for their use. Provides for disciplinary action, including administrative penalties, against direct-entry midwives. Defines and provides penalties for unlawful and unprofessional conduct. Sets standards for consultation with, collaboration with, referral to, and transfer to other health care providers and sets standards for liability under those circumstances. Brings licensed direct-entry midwives within the scope of the Health Care Providers Immunity from Liability Act.

H.B. 37 Administrative Rules Reauthorization

Reauthorizes all state agency administrative rules.

H.B. 52 Fire Prevention Amendments

Requires that installation, repair, or replacement of water-based fire protection system as a building improvement must be provided by a licensed fire suppression systems contractor or a licensed journeyman plumber, even if the value of the improvement is less than \$1,000.

H.B. 55 Drug Offense Penalty Amendments

Provides that a first offense involving unlawful possession of a controlled substance is to be sentenced with the increased penalty for a second offense if the defendant has previously committed an offense involving unlawful distribution or manufacturing of a controlled substance.

H.B. 66 Naturopathic Physician Amendments

Provides that an applicant seeking licensure as a naturopathic physician by endorsement shall pass examination requirements established by the division which the applicant has not passed in connection with licensure in another jurisdiction and which are available to the applicant to take without requiring additional professional education. Allows licensed naturopathic physicians to sell homeopathic remedies or dietary supplements from their offices.

H.B. 71 Licensing of Estheticians and Nail Technicians

Removes archaic work experience grandfathering provisions dealing with the licensing of estheticians, master estheticians, and nail technicians. Modifies the length of apprenticeship programs for estheticians, master estheticians, and nail technicians. Increases the curriculum requirement for nail technology schools from 200 to 300 hours. Increases from 250 to 375 hours the number of hours of training required for an approved nail technician apprenticeship. Expands the unlawful conduct provision that applies to nail technicians to include the use of methyl methacrylate by a nail technician on a client. Provides the Division of Occupational and Professional Licensing with authority to issue citations to nail technicians who use methyl methacrylate on their clients.

H.B. 75 Government Records Access and Management Task Force

Creates the Government Records Access and Management Task Force. Sets forth the duties of the task force. Requires the task force to report to the Public Utilities and Technology Interim Committee and the Government Operations Interim Committee. Bill is repealed on November 30, 2005.

H.B. 105 I Sub Construction Filing Amendments

Makes changes to mechanics' liens. Addresses exemptions from preliminary notices. Addresses final completion of an original contract. Addresses certificates of compliance. Defines terms. Clarifies how the State Construction Registry is to be indexed. Requires the Division of Occupational and Professional Licensing to comply with Title 63, Chapter 38, Budgetary Procedures Act, when setting fees for the database. Provides that actions in connection with a filing to the database are not adjudications within the meaning of Title 63, Chapter 46b, Administrative Procedures Act. Clarifies that the Division is not responsible for monitoring the timeliness of filings. Establishes provisions for addressing delinquency of payment of a filing fee for a filing to the database. Allows the division to make rules establishing the form of submission of an alternate filing. Provides that the archiving of a notice filed with the database may occur not earlier than the later of one year after the filing of a notice of completion, two years after the last filing activity if no notice of completion is filed; or one year after a filing is cancelled. Provides that data submitted to the database by a governmental entity is classified under Title 63, Chapter 2, Government Records Access and Management Act, by the Division. Clarifies the required content of a notice of commencement filed for a project where no building permit is required. Provides that a person requesting a notice of filings for a project is responsible for the accuracy of an e-mail address, mailing address, or the telefax number to which notice is requested to be sent. Provides that the designated agent need only send the notice to the provided e-mail address, mailing address, or telefax number, whether or not the notice is actually received. Modifies the time within which a subcontractor or supplier must file a preliminary notice. Clarifies that a preliminary notice filed for one construction project applies to all labor, service, equipment, and material for that construction project. Addresses requirements for a qualified beneficiary's recovery from the Residence Lien Recovery Fund. Makes technical changes.

H.B. 109 Information Technology Governance Amendments

Consolidates information technology services and governance in the executive branch of state government into one department. See lengthy bill for details.

H.B. 176 Revisor Statute

Modifies parts of the Utah Code, including Title 58, to make technical corrections, including working, cross-references, and numbering changes.

H.B. 198 Naturopathic Formulary Peer Committee Amendments

Changes the composition of the Naturopathic Formulary Advisory Peer Committee by increasing from one to three the number of naturopathic physicians on the committee who are not members of the licensing board. Eliminates the two board positions currently filled by licensed physicians and surgeons.

H.B. 213 Unused Sick Leave at Retirement Amendments

Modifies the Utah State Personnel Management Act by amending unused sick leave at retirement provisions. See lengthy bill for details. Provides that no additional converted sick leave can be added after January 1, 2014. Provides that after December 31, 2005, new sick leave hours may not be accumulated for future use under the current Unused Sick Leave Retirement Option Program. Provides a five-year phase out of the guaranteed continuing medical and life

insurance benefits for retiring employees and the 480 hour reduction of unused sick leave. Changes the name of the current program to Unused Sick Leave Retirement Option Program I. Deletes the provision allowing “up to” 25% of unused sick leave under program I which may be cashed out upon retirement to requiring 25% of unused sick leave received as a contribution into a 401k defined contribution plan upon retirement. Creates the Unused Sick Leave Retirement Program II for sick leave hours accumulated on or after January 1, 2006, which provides

- 25% of unused sick leave, upon retirement, shall be received as a contribution into a 401k defined contribution plan and participation in a benefit plan that provides for reimbursement for medical expenses using the remainder of unused sick leave hours at the employee’s rate of pay at the time of retirement but not less than the average rate of pay as for employees who retired in the same state retirement system during the previous calendar year.
- Allows employees to make a one-time election to transfer unused sick leave hours to the new program beginning January 1, 2011.
- The Division of Finance must develop and maintain a system of accounting for sick leave as necessary to implement these programs.
- The Utah State Retirement Systems must develop and maintain a program to provide a benefit plan that provides for reimbursement for medical expenses.

Makes Technical changes.

H.B. 243 Repeal of Geriatric Care Manager

Amends the Nurse Practices Act to repeal provisions related to geriatric care managers. Removes the reference to geriatric care managers in the following areas of the Nurse Practices Act: definitions; qualifications for licensure; qualifications for admission to examinations; unprofessional conduct; and minimum standards for nursing programs. Repeals the pilot program for geriatric care managers.

H.B. 279 Clinical Counselor – Title Change

Changes the designation of individuals licensed under the act from licensed professional counselor to licensed clinical counselor and from certified professional counselor intern to certified clinical counselor.

H.B. 301 Supplemental Appropriations Act III

Supplements or reduces appropriations previously provided for the use and operation of state government for the fiscal year beginning July 1, 2005 and ending June 30, 2006. Provides budget increases and decreases for the use and support of certain state agencies. Provides budget increases and decreases for other purposes as described. Provides intent language.

S.B. 311 Controlled Substance Law Amendments

Defines the term “consumption as it relates to possession of a controlled substance. Defines consumption of a controlled substance as having any measurable amount of a controlled substance in a person’s body. Clarifies that controlled substance does not include the metabolite of a controlled substance. Provides that a person who is found to be driving with any measurable controlled substance in the body is subject to conviction and sentencing under the relevant DUI law and controlled substance law.

H.J.R. 20 Master Study Resolution

Specifies study items for consideration during the 2005 Interim. Gives the Legislative Management Committee items of study it may assign to the appropriate interim committee during the 2005 legislative interim committee. Directs interim committees assigned these studies to study and make recommendations for legislative action to the 56th Legislature prior to the 2006 Annual General Session. Suggests in approving studies the Legislative Management Committee give consideration to the available time of legislators and the budget and capacity of staff to respond.

S.B. 1 Supplemental Appropriations Act

Supplements or reduces appropriations previously provided for the use and operation of state government for the fiscal year beginning July 1, 2004 and ending June 30, 2005. Provides budget increases and decreases for the use and support of certain state agencies. Provides budget increases and decreases for other purposes as described. Provides intent language.

S.B. 3 Supplemental Appropriations Act II

Supplements or reduces appropriations previously provided for the use and operation of state government for the fiscal years beginning July 1, 2005 and ending June 30, 2006 and beginning July 1, 2004 and ending June 30, 2005. More specifically, it provides budget increases and decreases for the use and support of certain state agencies. It provides funds for the bills with fiscal impact passed in the 2005 General Session. It provides budget increases and decreases for other purposes as described. It provides intent language. It amends previously approved internal service fund employment levels and capital acquisition amounts.

S.B. 27 Sunset Reauthorizations

Reauthorizes certain state entities and programs, including licensing acts, that would otherwise sunset before the 2006 Annual General Session of the Utah Legislature.

S.B. 43 2 Sub Penalty for Providing False Information to State Agency

Modifies the Criminal Code by expanding certain penalties for providing false information to also apply to false information provided to state or local government. Provides that knowingly giving false information to a state or local government agency or personnel with the intent that another person has committed an offense or to induce a change in a person's licensing or certification status is a class B misdemeanor.

S.B. 44 1 Sub Governmental Records Amendments

Modifies provision of the Government Records Access and Management Act. Modifies the definition of "person" under the Government Records Access and Management Act to include combinations of individuals or entities acting in concert. Modifies the definition of "record" under the act to include only references to the singular and to clarify its relation to the definition of "record series." Allows governmental entity to sequentially produce multiple record requests from persons serving their private interest. Permits government entities to allow a person requesting records to personally make copies or to provide facilities for copying records in certain circumstances. Requires government entities to provide reasonable safeguards to protect the public from the potential loss of public records. Allows government entities to provide access to an electronic equivalent of a paper record. Modifies language relating to

appeals from records committee decision to clarify that appeals are permitted by any party.
Makes technical changes.

S.B. 50 Controlled Substance Amendments

Amends the Pharmacy Practice Act and the Controlled Substances Act to repeal the Controlled Substance Database Advisory Committee and assign the committee's duties to the State Board of Pharmacy. Allows authorized employees of the Department of Health access to the controlled substance database for scientific studies. Allows the Division of Occupational and Professional Licensing to authorize by rule a prescriber's use of an electronic or digital signature in issuing prescriptions. Amends the functions of the State Board of Pharmacy to include its duties regarding the controlled substance database. Requires that Department of Health employees having access to the controlled substance database maintain the confidentiality of persons and pharmacies in the database.

S.B. 55 Access to Patient Medical Records

Requires an applicant for license under the Medical Practices Act and the Osteopathic Medical Practices Act to appoint a contact person for access to medical records in accordance with HIPAA and an alternate contact person for access to medical records. Requires an applicant for renewal of a license to appoint a contact person for access to medical records and an alternate contact person. Requires solo-practitioners to provide a method of notifying patients of the identity of the contact person and alternate contact person for access to medical records. Requires a licensee who is renewing a license to certify to the division that the licensee is in compliance with the requirement to appoint a contact person and alternate contact person for access to medical records.

S.B. 60 2 Sub Local Land Use Development and Management Amendments

Modifies county and municipal land use, development, and management provisions. With regard to the Division and Occupational Licensing, the bill merely makes a technical correction to a statutory reference in Section 58-56-4.

S.B. 71 Security Personnel Licensing Amendments

Amends the Security Personnel Licensing Act to provide that persons who control entry to public events by duties such as taking tickets and checking bags are not security officers under the act if these persons may not use force in their duties. This bill also provides a definition of "specialized resources, motor vehicles, or equipment" as this phrase is used in the act.

S.B. 74 Medical Reserve Corps

Authorizes the local department of health to organize, activate, and supervise a medical reserve corps during a time of declared public health emergency or disaster. Amends the Occupational and Professional Practices Act to permit retired health care professionals to serve in a medical reserve corps during a time of disaster or emergency. Clarifies that the Good Samaritan laws apply to health care professionals who volunteer during a declared emergency or disaster.

S.B. 96 Commerce Service Fund Amendments

Makes a technical correction to language governing transfers from the Commerce Fund. Clarifies that monies remaining in the Commerce Service Fund after legislative appropriations are transferred into the General Fund at the end of the fiscal year and makes technical amendments.

S.B. 101 Utah Administrative Rulemaking Act Revision

Amends rulemaking terms in the Utah Code to conform with the Administrative Rulemaking Act and clarifies state agency authority to amend and repeal rules. Amends the Utah Code by replacing the word “revoke” with “repeal” in the context of a state agency’s rulemaking authority. Clarifies that an agency authorized to make administrative rules is also authorized to amend or repeal those rules.

S.B. 142 Pharmacy Practice Act Amendments

Makes technical and clarifying changes to the Pharmacy Practice Act. Clarifies and modifies definitions. Updates an organization name. Amends the definition of “unprofessional conduct.” Makes technical and clarifying changes.

S.B. 223 Oversight and Enforcement of Work Done on Mobile Homes

Modifies the definition of construction trade in the Utah Construction Trades Licensing Act. Includes mobile and manufactured homes within the definition of structures referred to in the Utah Construction Trades Licensing Act, thereby giving the Division of Occupational and Professional Licensing oversight of construction trades that construct, alter, remodel, or repair mobile or manufactured homes.